

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **WESTERN DISTRICT OF PENNSYLVANIA**

4 MELISSA D. LEBEDA,)

5 Plaintiff)

6)

7 v.)

8 NELSON, WATSON &)

9 ASSOCIATES, LLC,)

10 Defendant)

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

11 **COMPLAINT**

12 MELISSA D. LEBEDA (“Plaintiff”), by and through her attorneys,
13
14 KIMMEL & SILVERMAN, P.C., alleges the following against NELSON,
15 WATSON & ASSOCIATES, LLC (“Defendant”):

16 **INTRODUCTION**

17 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices
18 Act (“FDPCA”), 15 U.S.C. § 1692 *et seq.*

19 **JURISDICTION AND VENUE**

20 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),
21 which states that such actions may be brought and heard before “any appropriate
22 United States district court without regard to the amount in controversy,” and 28
23

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendant conducts business in the Commonwealth of Pennsylvania,
4 and as such, personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

6
7 **PARTIES**

8 5. Plaintiff is a natural person residing in West Mifflin, Pennsylvania
9 15122.

10 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §
11 1692a(3).

12 7. Defendant is a national debt collection company with its corporate
13 headquarters located at 80 Merrimack Street, Lower Level, Haverhill,
14 Massachusetts 01830.

15 8. Defendant collects, and attempts to collect, consumer debts incurred,
16 or alleged to have been incurred, for personal, family or household purposes on
17 behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

18 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
19 1692a(6), and sought to collect a debt from Plaintiff.

1 10. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.
4

5 **FACTUAL ALLEGATIONS**

6 11. At all relevant times, Defendant was attempting to collect an alleged
7 consumer debt from Plaintiff.
8

9 12. The alleged debt at issue, a personal credit card issued by Capital One
10 Services, LLC, arose out of transactions that were primarily for personal, family,
11 or household purposes.
12

13 13. Beginning in June 2014, Defendant contacted Plaintiff in writing in its
14 attempts to collect a debt.

15 14. Specifically, on or around June 2, 2014, Defendant sent a collection
16 letter to Plaintiff. See Exhibit A, Defendant's June 2, 2014, letter.
17

18 15. The collection letter was addressed to "Melissa D. Lebeda." See
19 Exhibit A.

20 16. The letter was an effort to collect on a consumer debt, i.e. a personal
21 credit card. See Exhibit A.
22

23 17. The letter was sent to Plaintiff in a clear, plastic window envelope.

24 18. Through the window of the envelope, the original account number
25 from Capital One Services, LLC, "718922909," was visible. See Exhibit A.

1 19. Further, Defendant's Account Number, "CAPO805989," was also
2 visible on through a window on the envelope. See Exhibit A.

3 20. A debt collector is prohibited from "using any language or symbol,
4 other than the debt collector's address, on any envelope when communicating with
5 a consumer by use of the mails...." See 15 U.S.C. § 1692f(8).

6 21. The collection letter utilized by Defendant conveyed such
7 information violating the FDCPA. See Douglass v. Convergent Outsourcing, 765
8 F.3d 299 (3d Cir. 2014).

9
10
11 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
12 **ACT**

13 22. In its actions to collect a consumer debt, Defendant violated the
14 FDCPA in the following ways:

15
16 **COUNT I**

17 a. A debt collector violates § 1692f of the FDCPA by using unfair
18 or unconscionable means to collect or attempt to collect any
19 debt.

20
21 b. A debt collector violates § 1692f(8) of the FDCPA by using any
22 language or symbol, other than the debt collector's address, on
23 any envelope when communicating with a consumer by use of
24 the mails or by telegram, except that a debt collector may use
25 his business name if such name does not indicate that he is in

1 the debt collection business.

- 2 c. Here, Defendant violated §§ 1692f and 1692f(8) of the FDCPA
3 by disclosing the creditor's account number and its account
4 number through clear plastic window of an envelope containing
5 a collection letter.
6

7 WHEREFORE, Plaintiff, MELISSA D. LEBEDA, respectfully prays for a
8 judgment as follows:
9

- 10 a. All actual damages suffered pursuant to 15 U.S.C. §
11 1692k(a)(1);
12
13 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
14 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
15
16 c. All reasonable attorneys' fees, witness fees, court costs and
17 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
18 § 1693k(a)(3); and
19
20 d. Any other relief deemed appropriate by this Honorable Court.

21 **DEMAND FOR JURY TRIAL**

22 PLEASE TAKE NOTICE that Plaintiff, MELISSA D. LEBEDA, demands
23 a jury trial in this case.
24
25

RESPECTFULLY SUBMITTED,

Date: 12/12/14

By: /s/ Craig Thor Kimmel

CRAIG THOR KIMMEL

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